

COUNTY of
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VIRGINIA

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Planning Commission

District 1
Patrick Smook

District 2
Keith Oulie, DDS

District 3
William C. Burger, Vice Chair

District 4
David Brown

District 5
Roland Gilliam

At Large
Parker Wheeler, Chair

At Large
Irene Speas

William "Bill" Osl
Board of Supervisors - Liaison

MINUTES OF THE
CUMBERLAND COUNTY PLANNING COMMISSION
Purchase of Development Rights (PDR) Workshop
Cumberland County Old Clerks' Office
Cumberland, Virginia
March 6, 2006, 7:00 P.M.

Present: Patrick Smook, District 1
Keith Oulie, District 2
Bill Burger, Vice-Chair, District 3
Roland Gilliam, District 5
Irene Speas, At-Large Parker Wheeler, Chairman, At-Large

Absent: David Brown, District 4

Also Present: Catherine Kahl, Clerk of the Commission
Elbert Womack, Board of Supervisors

The meeting was called to order, the roll called, and a quorum established.

Ms. Kahl introduced the workshop on Purchase of Development Rights (PDR) programs and the two guest speakers.

The first speaker was Robins Buck of the Virginia Department of Agriculture and Consumer Services (VDACS). Mr. Buck explained that he worked in agribusiness development services and had assisted in the development of the state PDR program. He explained that there is now a trend toward small agribusinesses, including aquaculture, nurseries and food processing facilities. Mr. Buck presented a PowerPoint presentation that provided a statewide overview of the PDR program as well as offered a model PDR program for localities. Throughout the development process, VDACS created two important resources, "A Model of Purchase of Development Rights Program for Virginia," Part One and Part Two. Part One focuses on local issues and programs while Part Two has a statewide emphasis. The information for these materials came from a task force that used the expertise of other localities and states.

Mr. Buck also spoke about the Virginia Agriculture Vitality program as a means to preserve farm businesses as well as to preserve the physical assets of farming (farmland preservation). He further emphasized that a PDR program is only one way to preserve farmland. He also cautioned that when preparing a PDR program that we must be clear about the goals and purposes. A PDR program is not intended to preserve all farmland.

Rather, it is intended to preserve the best farmland. Mr. Bucks suggested that if it is too late to preserve one area of the county, move to another area and let the previous one develop. He also advised that a locality incorporate an agricultural enhancement strategy in the Comp Plan.

Mr. Buck gave another PowerPoint presentation focused on the Virginia Farm and Forest Land Preservation Initiative. In this presentation he explained that the initiative would be funded by a state match for local dollars.

Mr. Buck then explained the status of proposed legislation that would provide state-level funding. He stated that originally the House had a bill with a \$15 million line item for PDR programs and that the Senate had a bill with a \$15.5 million line item for PDR programs. Both of these have since been removed, with the exception of \$1.225 million remaining in the Senate bill marked for the establishment of local PDR programs. Mr. Buck also explained SJ 94, a Senate Joint Resolution, which would establish long-term funding sources for PDR programs. This resolution would require a subcommittee to meet four times and then prepare a study to present in November. Mr. Buck concluded his presentation with a hint that there will likely not be funding for PDR programs this year, but that it will come very soon.

Ed Overton, PDR Program Administrator for James City County, presented information on PDR programs from the perspective of a locality. Mr. Overton's experience includes working for Cooperative Extension for 32 years and helping to develop the PDR ordinance for James City County.

Mr. Overton gave a PowerPoint presentation entitled "Purchase of Development Rights: Retaining the Rural Character of James City County." The presentation began with an overview of the county including a map designating the Primary Service Area (PSA) and the rural area. The focus of their PDR program is in the rural area, or any area outside of the PSA. In addition to a PDR program, James City County has a program called Green Space which complements the PDR program but is more comprehensive because it can also operate in the PSA. The Green Space program focuses on areas facing imminent development pressure and is able to purchase specific tracts of land in addition to the purchase of easements. In addition, James City County also utilizes use value taxation.

Mr. Overton stated that the purpose of the PDR program is to protect the best of what remains of the rural land and to protect community character corridors. The presentation also explained the ranking criteria and specific process of administering the program. Mr. Overton emphasized that James City County should have implemented this program in 1980 and that Cumberland is starting it at the right time.

After the presentations, the Planning Commission had a discussion with Mr. Buck and Mr. Overton. Mr. Buck made two important points about PDR programs:

1. Emphasize that the program is voluntary and only one of many tools
2. Establish a local PDR program because state funding will be coming—if the county wants to be a participant in the state program then we must have the ordinance in place and a local source of funding.

Commissioner Burger asked if you set up an agricultural district through zoning once the best agricultural land has been determined. Mr. Buck responded that you must define the goal of the program and identify the best land in the county that you never want to see developed. Mr. Overton offered a farming perspective and commented that the more contiguous parcels you can protect, the more it will assist the agricultural industry. He also said that an applicant will get extra points in the ranking if they are located next to an already existing easement.

Commissioner Oulie asked what type of experience the speakers had had with imposing restrictive agricultural zoning. Mr. Overton replied that he had observed a lot of negative impact from landowners when the county went from a 1 acre minimum to a 3 acre minimum in agricultural areas in the 1980s. He commented that the constant question of how to deal with rural land is a very charged issue. Commissioner Oulie then asked what sort of legal ramifications there might be from overlay zoning that are further restrictive than agricultural zoning. Mr. Overton shared that James City County has done some overlay districts, including one in the northern part of the county to protect the reservoir watershed and there has been no challenge to that. He also stated that Isle of Wight has some type of zoning that appears to be extraordinarily restrictive and recommends looking at that.

Commissioner Oulie then asked about the possibility of making changes on the easement in the future if circumstances change. Mr. Overton responded that the deed does have a clause about future viability that could possibly extinguish the easement. The deed also has a clause that permits tweaking of the easement as needed. In addition, another change can be made by providing an easement for a comparable parcel elsewhere in the county, but that is quite difficult to do from a practical standpoint.

Mr. Womack asked if the easement controls animal use or numbers. Mr. Overton replied that the county ordinance has a limit of animals per acre but that the PDR program does not address that.

Commissioner Burger inquired about the chances of money going into this program in the next five years. Mr. Buck answered that he is optimistic and that the state will likely provide funding next year. Commissioner Burger asked how much money is matched to local money. Mr. Buck said that it was a full match from the state, up to 50% of the value of the property. Commissioner Smook added that the more localities that have PDR ordinances, the more the General Assembly will have to seriously consider funding for this.

Ms. Kahl asked the guest speakers what they would recommend Cumberland do at this point. Mr. Buck responded that the county should put a PDR ordinance in place now. The first step in doing this is to establish a PDR committee. He advised asking the Board when they want to have the ordinance in place and to have the PDR committee prepare it for that time. Mr. Buck believes that there will likely be funding July 1, 2007.

Commissioner Speas observed that James City County has done a commendable job of educating its citizens. Commissioner Oulie asked if it was correct to establish areas in which to focus PDR programs. Mr. Overton said that was correct and suggested considering areas that are agriculturally rich and have interested landowners. Commissioner Oulie observed that many landowners here do not want to give up any rights.

Mr. Overton commented that most counties are not able to fund these programs very much, or only for a limited amount of time. Not all counties are like Fauquier where there is social pressure to protect your land. Rather, that tends to happen in areas where landowners are quite wealthy, not just land-rich.

Commissioner Speas asked if there were any mistakes that we can learn from or avoid. Mr. Overton commented that the James City County ordinance requires regular review

and how important that is. In addition, he commented that they are looking for ways to make the ordinance more flexible. He used the example of how to provide housing for laborers who work on a farm protected by conservation easement.

Commissioner Smook asked if there were any enforcement issues. Mr. Overton answered no and that they do yearly monitoring. Commissioner Smook then asked about the teeth of the program. Mr. Overton responded that the deed is where the strength of the easement is as well as regular monitoring. He also suggested having a way to indicate which parcels have an easement on them, particularly for information that is available online. Commissioner Smook observed that an easement may increase a property's value over time. He then asked if an easement can be taken into account when considering development on adjacent properties. Mr. Overton said that was quite probable.

Mr. Womack asked if there were any difficulties when renovating a dwelling on a property with an easement. Mr. Overton responded that owners can do replacements and additions without any problem. Commissioner Speas inquired if an easement can restrict a farmer from the type of agriculture he practices on his property. Mr. Overton said that the deed does not get that specific and that the deed does not even require that the property stay in farming. He further commented that as technology evolves, agriculture may involve large tanks and equipment and it might not be as attractive as a field of corn is today. That is an issue that localities and the state will have to address in the future.

Mr. Buck suggested requiring best management practices in the deed. Mr. Overton stated that James City County has a grant that is designed to protect agricultural soils and historic sites and so limits impervious surface to 2%. The result is that such a limitation kills greenhouse and horticultural operations.

In conclusion, Mr. Buck emphasized that Cumberland should not delay establishing a PDR ordinance because it will likely take a year's worth of work. Commissioner Wheeler thanked Mr. Buck and Mr. Overton for taking the time to come share their information and experiences with the Planning Commission.

Commissioner Oulie suggested that the Planning Commission get started with this as soon as possible. Commissioner Smook asked at what point to create an ordinance. Commissioner Burger commented that first the Commission should draft the ordinance and then let the committee review it. Commissioner Wheeler suggested looking at the James City County ordinance to discuss at the next meeting.

There were no Commissioners' Comments.

Commissioner Burger made a motion to adjourn until Tuesday, March 14, 2006 at 7pm in the Courthouse, it was seconded by Commissioner Oulie, and unanimously approved.

Attested:

Parker Wheeler, Planning Commission Chair

Date

Catherine Kahl, Clerk of the Commission

Date